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8	BEFORE THE BOARD OF REGISTERED NURSING	
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
10	STATE OF C	
11	In the Matter of the Accusation Against:	Case No. 2013-152
12	PATRICIA I. LABRIE	ACCUSATION
13	a.k.a., PATRICIA IONE LABRIE 31855 Date Palm Drive, Suite 3165	
14	Cathedral City, CA 92234	
15	Registered Nurse License No. 192605	
16	Respondent.	
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18	Complainant alleges:	
19	<u>PARTIES</u>	
20	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her	
21	official capacity as the Executive Officer of the Board of Registered Nursing, Department of	
22	Consumer Affairs.	
23	2. On or about September 30, 1968, the Board of Registered Nursing (Board) issued	
24	Registered Nurse License No. 192605 to Patricia I. Labrie, also known as Patricia Ione Labrie	
25	(Respondent). The Registered Nurse License was in full force and effect at all times relevant to	
26	the charges brought herein and will expire on November 30, 2013, unless renewed.	
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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

- 4. Section 490 states, in pertinent part:
- "(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
- "(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.
- "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."
- 5. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
 - 6. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

- "(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."
 - 7. Section 2762 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

. . .

- "(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.
- "(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof."
- 8. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

REGULATORY PROVISIONS

9. California Code of Regulations, title 16, section 1444 states, in pertinent part:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare."

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COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

- 11. Respondent is subject to disciplinary action under sections 2761, subdivision (f) and 490, in conjunction with California Code of Regulations, title 16, section 1444, in that Respondent was convicted of crimes substantially related to the qualifications, functions or duties of a registered nurse, as follows:
- On or about February 10, 2011, after pleading nolo contendere, Respondent was a. convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (a) [driving under the influence of alcohol or drugs] in the criminal proceeding entitled The People of the State of California v. Patricia Ione Labrie (Super. Ct. San Luis Obispo County, 2011, No. M000453817). The Court sentenced Respondent to serve 10 days in San Luis Obispo County Jail and placed her on 4 years probation, with terms and conditions. The circumstances surrounding the conviction are that on or about October 16, 2010, during an enforcement stop, by the California Highway Patrol in San Luis Obispo, Respondent was contacted. While speaking to Respondent, the officer detected the smell of alcohol emitting from her breath. She was observed to have red and watery eyes, she seemed confused, and had rapid speech. While at the scene, Respondent submitted to a Preliminary Alcohol Screening Test (PAS). She could not or would not perform the test, as explained. Respondent attempted to complete this test 6 times before providing a sample of sufficient volume that resulted in a breath-alcohol content level of 0.078%. Respondent attempted to complete a second test 4 times, but did not provide a sample of sufficient volume, so this test was not completed. Since Respondent failed to complete a breath test, she agreed to submit to a blood test, and was transported to Twin Cities Hospital, where she submitted to a blood test.

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On or about November 7, 2006, after pleading nolo contendere, Respondent was Ъ. convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% and more, by weight, of alcohol in her blood] in the criminal proceeding entitled The People of the State of California v. Patricia Ione Labrie (Super. Ct. Los Angeles County, No. 6GN05539). The Court sentenced Respondent to serve 4 days in Glendale City Jail and placed her on 48 months probation, with terms and conditions. The circumstances surrounding the conviction are that on or about September 1, 2006, Respondent drove a vehicle, while having 0.08% and more, by weight of alcohol in her blood, and collided with a parked vehicle, resulting in damages to another. She was observed, by the Glendale Police Department Officer, to be unresponsive to questions and continued to sit in the driver seat and gazed forward. After several attempts to speak with Respondent, her non-responsiveness to questions and inability to step out of the vehicle or speak or remain conscious, she was transported to the hospital for a medical evaluation. When asked how much and what she had to drink, Respondent stated "Three drinks. 151 Rum." Respondent submitted to a blood test that resulted in a bloodalcohol content level of 0.15%.

SECOND CAUSE FOR DISCIPLINE

(Dangerous Use of Alcohol)

12. Respondent is subject to disciplinary action under section 2761, subdivision (a), as defined in section 2762, subdivision (b), in that on or about October 16, 2010 and September 1, 2006, Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to herself, another person, or the public. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 11, subparagraphs (a) and (b), inclusive, as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Convictions Involving the Consumption of Alcohol)

13. Respondent is subject to disciplinary action under section 2761, subdivision (a), as defined in section 2762, subdivision (c), in that on or about November 7, 2006, Respondent was convicted of crimes involving the consumption of alcohol. Complainant refers to, and by this

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1	reference incorporates, the allegations set forth above in paragraph 11, subparagraphs (a) and (b),	
2	as though set forth fully.	
3	<u>PRAYER</u>	
4	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
5	and that following the hearing, the Board issue a decision:	
6	1. Revoking or suspending Registered Nurse License No. 192605, issued to Patricia I.	
7	Labrie;	
8	2. Ordering Patricia I. Labrie, also known as Patricia Ione Labrie to pay the Board the	
9	reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and	
10	3. Taking such other and further action as deemed necessary and proper.	
11	DATED: September (3012 How Run LOUISE R. BAILEY, M.ED., RN Executive Officer	
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13	Board of Registered Nursing Department of Consumer Affairs	
14	State of California Complainant	
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